

PATRICK D. MORIARTY, State Bar No. 213185
pmoriarty@aghwlaw.com
JOHN B. ROBINSON, State Bar No. 297065
jrobinson@aghwlaw.com
ALLEN, GLAESSNER, HAZELWOOD & WERTH, LLP
180 Montgomery Street, Suite 1200
San Francisco, CA 94104
Telephone: (415) 697-2000
Facsimile: (415) 813-2045

Attorneys for Defendants
CITY OF MODESTO and MODESTO POLICE
DEPARTMENT

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LISA MARIE GIL, individually;
ANGELICA MARIE GIL, a minor;
ARLENE MARIE GIL, a minor; ISABEL
VICTORIA GIL, a minor; and PEDRO
ANTONIO GIL, JR., a minor, by and
through their Guardian ad Litem, LISA
MARIE GIL,

Plaintiff,

v.

CITY OF MODESTO; MODESTO
POLICE DEPARTMENT; INVOLVED
MODESTO POLICE OFFICERS;
COUNTY OF STANISLAUS;
STANISLAUS COUNTY SHERIFF'S
OFFICE; and INVOLVED SHERIFF'S
DEPUTIES; and DOES 1 to 100,

Defendants.

Case No. 1:20-CV-01368-NONE-HBK

**STIPULATION AND ORDER TO DISMISS
PLAINTIFFS' 42 U.S.C. § 1983 CLAIM**

Trial: None Set

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STIPULATION

WHEREAS on July 6, 2020, Plaintiffs filed their Complaint for (1) Negligence and (2) Deprivation of a Federal Right under 42 U.S.C. § 1983 in Stanislaus County Superior Court against Defendants City of Modesto, Modesto Police Department, County of Stanislaus, and Stanislaus County Sheriff's Department;

WHEREAS on September 28, 2020, Defendants City of Modesto and Modesto Police Department removed this action to this Court under 28 U.S.C. § 1441(a);

WHEREAS Plaintiffs seek to dismiss their second cause of action for Deprivation of a Federal Right under 42 U.S.C. § 1983;

WHEREAS all parties who have appeared are entering into this stipulation to dismiss;

IT IS HEREBY STIPULATED, by and between Plaintiffs and Defendants City of Modesto, Modesto Police Department, County of Stanislaus, and Stanislaus County Sheriff's Department, by and through their respective counsel, that:

1. Plaintiffs' second cause of action for deprivation of a federal right under 42 U.S.C. § 1983 is hereby dismissed with prejudice.

2. Because removal jurisdiction was predicated on plaintiffs' sole federal claim, the sole federal claim has been dismissed, and plaintiffs' sole remaining claim is for common law negligence under California law, the parties agree that this case is appropriate for remand to state court.

Dated: January 13, 2021

RIVERA HEWITT PAUL, LLP

By: /s/Shanan L. Hewitt

Shanan L. Hewitt

Wendy Motooka

Attorneys for Defendants, COUNTY OF
STANISLAUS and STANISLAUS COUNTY
SHERIFF'S DEPARTMENT

1 Dated: January 13, 2021

ALLEN, GLAESSNER,
HAZELWOOD & WERTH, LLP

2
3 By: /s/ Patrick Moriarty

Patrick Moriarty

John B. Robinson

4 Attorneys for Defendants, CITY OF MODESTO
5 and MODESTO POLICE DEPARTMENT

6 Dated: January 13, 2021

CAPUTO & VAN DER WALDE, LLP

7 By: /s/Paul F. Caputo

Paul F. Caputo

8 Attorneys for Plaintiffs

9 Dated: January 13, 2021

LEANOS LAW FIRM

10 By: /s/Jamie A. Leanos

Jamie A. Leanos

11 Attorneys for Plaintiffs

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13 **ORDER**

14 The court, having reviewed the stipulation of all parties dismissing plaintiffs' sole federal
15 claim, orders that plaintiffs' second cause of action for deprivation of a federal right under 42
16 U.S.C. § 1983 is hereby dismissed with prejudice.

17 The court now lacks subject matter jurisdiction over this action. Under 28 U.S.C.
18 § 1367(c)(3), the court hereby declines to exercise supplemental jurisdiction over plaintiffs'
19 remaining state law negligence claim and remands the action to state court.

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21 IT IS SO ORDERED.

22 Dated: **January 13, 2021**

23 
UNITED STATES DISTRICT JUDGE